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SPEECH

OF

MR. CLAY, OF KENTUCKY,

ON

THE SPECIE CIRCULAR.

DELIVERED IN

THE SENATE OF THE UNITED STATES,

JANUARY 11, 1837.

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1837

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SPEECH OF MR. CLAY.

IN SENATE OF THE UNITED STATES, JANUARY 11, 1837.

The Senate having again proceeded to the Order of the Day, which was the consideration of the resolution heretofore moved by Mr. EWING, of Ohio, concerning the Treasury circular with the substitute therefor proposed by Mr. RIVES:—

Mr. CLAY said that he took great pleasure in tendering to the Senate his respectful thanks for the indulgence which had yesterday been accorded to him at the instance of the Senator from North Carolina. And he should esteem himself most happy if on the present occasion he should be so successful as to say what should occasion no regret to any for having conferred upon him that indulgence.

In the State (said Mr. C.) of which I am a citizen, I had lately occasion to express my opinion in regard to that Treasury order which it is proposed in the resolution offered by my friend from Ohio (Mr. EWING) to rescind. What I said on that occasion appeared in the prints of the day; and a degree of unexpected notoriety has since been given to it during the present session. What I uttered I sincerely believed. I believed it then, I believe it now; and I re-affirm it with all sincerity here in my place, as my settled opinion. Before, however, I proceed to state the grounds on which it rests, I shall take some notice of the able speech with which we were yesterday favored by the honorable Senator from Virginia, (Mr. RIVES.) Though that speech was any thing but a justification of the legality of the Treasury order, it was ingenious, plausible, often eloquent. The speech throughout its whole tenor was indeed directly adverse to the order. The Treasury order proceeds on the principle of requiring specie only in payment for one of the most important branches of the public revenue; but the Senator from Virginia is in favor of receiving in payment a mixed currency. The order proceeds on the principle of exhibiting partiality toward certain particular classes in their payment of the public dues; the Senator from Virginia is for a rule which shall operate alike and equally on all, and shall extend to every branch of the public revenue. In a great deal, indeed, in most of what was so well said by that Senator, I entirely concur. There are, however, some points of difference which I shall presently notice. I regret that while the country generally, while the Senator himself, and while we all are so deeply interested in knowing what is to be the real policy of the Administration on the question of the currency, we are left as much in the dark as ever. On one side of the Senate by one friend of the Administration it is said that the precious metals alone are to form the currency, and that all paper is to be driven out of use; gradually, indeed, but surely. The Senator from Virginia on this side says that the policy about to prevail seeks to establish a mixed currency, consisting in part of specie, and in part of the notes of specie-paying banks. Which of these friends of the Administration are we to credit? I must confess, that so far as past experience is to be looked to on such a subject, it seems to favor a metallic system more than a mixed currency.

At the last session of Congress, a proposition was introduced into the Senate, requiring the payment of specie in all cases by the purchasers of our public lands. That proposition was, however, put down by an almost unanimous vote. For, although no call was made for the yeas and nays, I think I am fully authorized in saying that had such a call been made, there would not have been more than one or two votes in favor of the measure. Yet on the 11th of July, almost immediately on the rising of Congress, we find this very proposition embodied in a Treasury order, which requires the payment of specie in regard to our most important branch of the public revenue. This fact would seem to indicate that the policy of a mixed currency, for which the Senator from Virginia has contended, was not then the policy of the Administration, and that not *his* but another's influence was predominant in the cabinet. In the preamble to this order, in which the reasons for it are set forth, we find not only that specie is required from all purchasers of the public land, but that that other element of the currency which the Senator would retain is denounced as "paper money." And even in regard to the messages of the President himself, did time permit, and were it necessary to do so, it would be easy to show from all of them, so far as they relate to this subject of currency, that although President Jackson commenced his administration by recommending a mixed currency, yet that he gradually departed more and more from that ground, until in the message of 1835, referred to by the Senator from Virginia, he speaks of getting back to the

"constitutional medium," evidently alluding to an exclusive specie circulation. You will therefore agree that the uncertainty of which I have spoken is not feigned but real; and I entreat the two divisions of the friends of the Administration speedily to settle between themselves the controverted question what the policy to be pursued actually is, and forthwith to state it to the country, so that all our business men may have an eye to it, and regulate themselves accordingly, in their moneyed transactions.

The Senator from Virginia tells us that he is in favor of an enlargement of the metallic foundation of the currency. And who is not? Is the idea a new one with the Senator from Virginia? Did it not originate, or was it not at least first pressed by my friends who were endeavoring to guard the currency of the country from the dangers which beset it? Was not the principle of restricting issues of bank notes below prescribed denominations first introduced by the Senator from Massachusetts who sits near me, (Mr. WEBSTER,) as one provision in the renewed charter of the Bank of the United States in 1832? And while I am very sure that the Senator from Virginia did not take from the speech of my friend on that occasion the anecdote which he introduced into his own of the message sent by Mr. Burke to Mr. Pitt, warning him that if he permitted the issue of one pound notes he would never again see a guinea in England, yet it does so happen that that very anecdote was related by the Senator from Massachusetts in his speech before the Senate in 1832, and was used by him expressly in support of the idea of increasing and strengthening the metallic basis of our paper currency.

But, whilst both gentlemen concur in the propriety of imposing some limitation on our paper circulation, yet there is a wide difference between them as to the mode in which that desirable object is to be effected. The Senator from Virginia would rely on the voluntary action of a thousand banks, and of twenty-six State sovereignties operating on these banks. We of the Opposition, on the contrary, thought it wisest to rely on a remedy within our own power, to trust to our own laws, and to look to that which we could effect by our own energies and the exertion of our own constitutional authority. We considered this a practical and efficacious means. The Senator from Virginia relies on what I consider wholly inefficient. His reliance, it seems, is on the enlightened patriotism of the States and of the banks; the enlightened patriotism of nine hundred or a thousand banks, created for the sole purpose of making money! But, sir, have we no lessons from experience in our own past history, as to the degree of reliance which may safely be placed on the mere voluntary action of any community, however enlightened and patriotic it may be? What was the state of things during our own Revolution, when we were contending in the most glorious cause that ever animated the hearts, or nerved the arms of men? The reliance was then on the voluntary payment of the quotas, not of twenty-six, but of thirteen States, indispensable to the success of that cause and to our soldiers, who, unfed and unclad, were enduring every suffering to which humanity can be possibly exposed. Let me ask the honorable Senator, in view of what then took place, whether reliance on the patriotism even of enlightened States, much less that of banking corporations, is safe and secure.

It is now four or five years since the policy was first announced on our side, and was afterwards taken up by a portion of the friends of the Administration, to widen the metallic foundation of the currency by a prohibition of small bank notes; and what has been the result? How many States has enlightened patriotism induced to adopt the policy? The Senator from Virginia mentioned Virginia, Pennsylvania, and Maryland, to which he might have added Kentucky, and possibly one or two others, as having imposed the desired restriction; but they did it either prior to, or without any sort of reference to the annunciation of the policy from Washington. Of all the twenty-six States, he believed New York and Maine only had conformed their legislation to the recommendation sent forth from this city. And it is remarkable, with respect to Maine, as he had understood, that, after the restriction was imposed, a supply of the prohibited notes below five dollars was sent for to Massachusetts, for small change in the transaction of business.

No, sir; no man has a higher opinion of the patriotism of the country than I have. There is no one who entertains a higher opinion of the patriotism of the States, or is more disposed to place a due and proper degree of reliance upon it; but I consider it sound policy not exclusively to depend upon it, but to add to that security the salutary vigor of the law. Hence we supposed that it had been demonstrated by all experience in this country that a national bank, created by, and under the proper control of this Government, was a fit and necessary instrument to guard the paper system of the country against its tendency to run into excessive issues, and ultimately into utter disorder; that such a bank would at least retard that deplorable state of things, and that, if it could not finally prevent it, when the notes of the local banks had lost all confidence, and ceased to be a secure circulation, the notes of the national bank would remain a safe medium in which the revenue of the country could be collected and disbursed.

From the moment that the Bank of the United States ceased to exist, you gave up the rudder of the national currency, and I greatly fear that it will get into such a state of con-

fusion that we shall see it go on, from worse to worse, until all shall unite in totally withdrawing from it the public confidence.

But if it were even possible that you could succeed by appeals to the States and to the banks in bringing about the restoration of a sound currency, how long would it last? Supposing a general pressure to be produced by the withdrawal of specie from the country, would not the banks instantly be prompted by the States themselves to supply the wants of the community by furnishing the desired medium? Trace back your own history; look to that period which preceded the Revolution, when the colonies were compelled to resort to bills of credit, and even to tobacco as a circulating medium: I believe that, in Virginia, the law to that effect remains still on the statute book, and that fee bills of some public officers are yet made out at the rate of so many pounds of tobacco for each item. If altered, the law has not been very long changed. The necessity of a circulating medium of some kind is indispensable. Society cannot exist without it. It cannot revert to the primitive state of barter. The representative of property must be had, even if it be in the form of peltries, tobacco, uncoined bars, paper money, or small bank notes. And this great social want is paramount to all law.

But the plan of the honorable Senator, to effect a restriction on bank issues, does not consist exclusively in a reliance on the patriotism of the banks or the States. He would appeal to the interest of the banks, and would hold over them the threat that, unless they cease the issue of small notes, the public deposits shall be withdrawn from their custody; in other words, it is by employing the revenue of the United States that he would effect the restriction he seeks. Now, sir, what is the amount of this revenue? Twenty-five or thirty millions per annum. And what did he tell us from very high authority? He told us that the money transactions in one single city, the city of New York, were estimated several years ago, and that by a man than whom none is better acquainted with all such matters, at 1,500 millions annually; and at this day the amount is probably double that. Now if, in one single city, the course of business requires the employment of 1,500 millions of dollars annually, what must be the aggregate amount of the transactions in all the other cities and parts of the Union? The amount baffles all human calculation; and do you suppose that, by wielding a revenue of only thirty millions, you can overawe, coerce, and control banks whose business amounts, perhaps, to a thousand times as much? What proportion does the number of your deposit banks bear to that of the whole of the banks of the Union? Before the passage of the deposit act they amounted, if I remember, to less than forty; they are now, perhaps, eighty; and we are told by a secret authority, which seems to be high and controlling, that their number, when the deposit act is executed, is again to be reduced down to forty; but say it is eighty, and then by your operation on these eighty banks you are to bring about an effect so important as to deprive the remaining nine hundred and twenty banks of that which, in many instances, constitutes the most important part of their circulation. Can we not see that the thing is perfectly chimerical?

Suppose you prevail with one bank to give up the issue of its small notes. What is the immediate effect? The vacuum produced by the withdrawal of the small notes of that bank is instantly filled by the small notes of other banks; and even if you could go a step further, and prohibit your deposit banks from receiving in deposit the notes of any bank which issues bills below five dollars, what would be the further effect? There would be an instant collision between the deposit banks and the other banks of the country; and, as the other banks are so much more numerous, the necessary result would be, the utter destruction of the deposit banks themselves. We have already seen some of the effects resulting from these requirements. We passed an act at the last session prohibiting the use of notes below \$10 in the disbursements of the United States. Well, sir, we have a disbursing bank in this city; and how was the rule observed? All the Senators who hear me are personal witnesses to its violation in payment to themselves of their daily allowance. I do not mention this to complain of it. It is possible, if you had ordered the officers of the Senate to receive either specie or notes over \$10, it would have been complied with. But the bank still goes on, and it would still continue its course, notwithstanding any voluntary restriction which your wisdom may suggest. Is it not too much to expect that, when you, to whom the task belongs, have abandoned the care of the currency of the country, the States or the banks shall take upon themselves the duty of remedying the defects or the neglect of your legislation? The parties will take care of themselves, and will look no further. They will leave to the whole to provide for the interests of the whole. What interest have the banks in Maine, for example, so to shape their course as to suit the exigencies of the community in Louisiana? We, on the contrary, contended for one currency, which should be general throughout the Union, consisting of the notes of the bank of the General Government, and for a local currency, consisting of the bills of local institutions; so that there might be a general currency, to be employed in purposes of a general nature, while the local currency would subserve all local purposes. Our wish was to have the general currency every where receivable in payment of the public dues, while we relied on the local banks for the medium of local circula-

tion. But you have given up a bank whose credit was co-extensive with the commercial world, which supplied a currency never surpassed, and regulated exchanges with an economy unexampled in this or any other country. And do you expect these local institutions can be an adequate substitute? Do you cherish the vain expectation that the States will come to your relief, and rectify your incompetency? No, sir, no. Each State will say, it is not our affair to provide a general currency for the United States; we must leave that to be managed by the General Government. And does not all experience demonstrate that, while local Governments constitute the safest depository of local interests, the General Government alone can provide for the welfare of the whole?

What is the present actual condition of the banking capital of the country? We told you that the moment you destroyed a Bank of the United States there would immediately spring up innumerable local banks; that banking capital would thus be greatly extended, and that the change might lead to the destruction of all confidence in the circulating paper medium. And are not these predictions in a rapid progress of fulfilment? We are informed by the Secretary of the Treasury that the amount of bank capital has increased, since the veto on the bank charter, from 200 millions to 300 millions—an increase of fifty per cent., and that the circulation has increased in the same ratio; viz. from 80 millions to 120 millions.

I concur with the Senator from Virginia in the position that no state of things is more calamitous than that which accompanies a decline in the circulating medium of a country, and the degree of distress is in proportion to the rapidity of such decrease; while, on the other hand, the prosperity of a country is never at least apparently greater than while the amount of its currency is on the increase. But does any man suppose that this can continue? Can any reflecting man persuade himself that twenty-six distinct and independent States, looking each one to its own separate interest, will exercise such forbearance as not to add bank to bank, and increase the paper circulation within its limits, till the country will be involved in the danger of some great calamity? I greatly fear it. When or how it shall come, no one can exactly foresee; but we can all imagine that, if there should occur a great failure, or a great reduction in the price of the Southern staple, or (what is now actually threatened) a general return of American stocks which have been sent to Europe on a foreign demand, from any cause, of a large amount of the specie in the United States, the necessary consequence would be such a run upon the banks as may cause a general suspension of specie payments, if not the bankruptcy of many of the banks. What is their present condition? They are without concert, co-operation, or mutual confidence. The moment there is a great and sudden demand to meet a corresponding demand abroad, there must ensue a general panic throughout the country. Each bank being necessarily unable to measure the exact extent of the demand, will, of course, call on its own debtors, and the same thing, for a similar reason, taking place in all the other banks, there will probably be a general stoppage of payments and universal bankruptcy. Was not all this foreseen? Was it not foretold? Were gentlemen not warned, again and again, not to destroy the only means on which we could with safety rely?

Between the system of the gentleman from Virginia and the hard money system, I am far from being sure that the latter is not a more efficacious remedy than any voluntary action of the States and of the banks. The hard money system proposes that, in all collections and disbursements of the revenues of the Government, specie alone shall be received, and all paper of every description entirely excluded. The object of both systems is to retain a certain amount of specie within the nation, by the creation of a necessity for its use, and thus to prevent its exportation: for if the Government shall decide to receive nothing but specie in payment of its dues, the consequence would be the necessity of retaining a sufficient amount of the hard metals for the collection and disbursement of the revenue. It might not, indeed, be necessary to retain the whole amount of 30 millions, assuming that to be the annual revenue, since one dollar in specie might be made to pay two dollars in revenue. But a certain amount, bearing a considerable proportion to the revenue, would be retained in the country. The process of getting at such a result is of necessity extremely difficult, and would create much practical inconvenience.

If specie should become very scarce, the collectors of the Government might from necessity be forced to receive a portion of the revenue in notes of good banks; but if you receive this revenue in specie only, you immediately and unavoidably elevate the relative value of specie above other parts of the currency, because, while hard money would perform all the offices of other media of circulation, it would then discharge one other office, which they could not. The result must be to create a demand for specie, and thereby to render it a marketable commodity. A man would not then, as now, be as ready to receive a debt in good notes as in specie. He will always want the specie, because it would command a premium. Does not the Senator perceive that gold and silver must then cease to be a circulating medium, and be converted into merchandise? It would be sold at an advance, and would be hoarded for that end. Yet I am far from being certain, if the object in view be to retain a certain amount of hard money in the country, that the remedy which suggests the exclusive use of

specie has not a certainty of success which cannot be produced by relying on the patriotism or the voluntary action of a thousand banks and twenty-six independent State sovereignties. My word for it, in fifteen or twenty years after the system of the Senator from Virginia shall have gone into effect, although the same identical banks may not continue to issue notes of a small denomination, yet the aggregate amount of such notes in actual circulation will not be less than it was at the commencement of the experiment.

But we were told by the honorable Senator that Great Britain and several other countries of Europe, having become enlightened by the example of America, are disposed to imitate it. He told us further, that the people of Great Britain are becoming sensible of the impolicy of monopolies, and opposed to the continuance of the Bank of England, and that the present policy of that Government aims at the establishment of joint stock companies in addition to the large number of private bankers, and by this means ultimately to get rid of the Bank of England altogether. On that subject all I can say is that such is not the state of my information. I know, indeed, that they have lately passed a law for the creation, under certain restrictions, of joint stock companies; but what is the state of public opinion in regard to those local banking institutions, which so closely, as the Senator thinks, resemble our own? It is distrust, uncertainty, and fear. We are all aware that a committee of the House of Commons, at the head of which is the Chancellor of the Exchequer, was required to examine into the condition of these local banks. I have before me a report of that committee, rendered as late as August last. The joint stock companies in that country are established by what they denominate deeds of settlement, which specify the conditions under which they are erected. After presenting an analysis of a variety of these deeds of settlement, the committee enumerate thirteen different defective provisions in the laws which may require the interposition of Parliament, and they conclude by urging the necessity of the greatest possible prudence and caution in the management of those banks.

While the language of the report shows very clearly that there is great apprehension felt as to the safety and solidity of these institutions, yet it is so constructed as prudently to avoid the excitement of unnecessary alarm. But supposing it to be true that, in a Government constituted as is Great Britain, it were possible to dispense with a national bank, and to rely on local joint-stock companies and on private banks, let me ask the honorable Senator if the condition of England and America is not totally different? You there see a power asserted for Parliament to legislate with plenary authority, both for the future and for existing institutions. Have we any such power? Theirs is a consolidated government; ours is a confederacy. They have power by their legislation to guard against malpractices in all the banking institutions in the kingdom. But here there is no such authority. There, there is not an institution which does not perpetually act under the control of a general law, extending throughout the empire. But here we have one thousand banks, scattered over our immense territory and in twenty-six States, on which the General Government can exercise no effective control whatever. So that even were it true that the British Government could dispense with the Bank of England, it would be far from proving that we could imitate her, when we consider that the local banks in this country are subject to twenty-six separate and independent Governments, over which we have no power to act.

We were told, and the country was promised, that on the destruction of the Bank of the United States we should be furnished with a better currency than we then enjoyed; a currency unrivalled on the face of the globe, which was under better regulation, and by which exchanges were effected at a cheaper rate than in any part of the earth. The paper of that bank had its credit established throughout the world. It was received in Asia, it was received all over Europe, and throughout this entire continent. Our exchanges were managed with an economy which we must all remember with regret at the change which has since taken place; for what is the state of our exchanges now? When they take place between distant places, the premium at the one end of the course ought to be met by the discount at the other end. But is that so? When a merchant at New York sells a bill on New Orleans at a discount, is that discount counterbalanced by the premium on a similar bill at New Orleans? No. A discount is charged at both ends of the line. And it often happens that at neither can you dispose of your bill without great difficulty and sacrifice.

I too, sir, am aware that we are surrounded with difficulties. In that I concur entirely with the Senator from Virginia; but my friends are not responsible for this state of things. You all know the reason of it. You all feel it every day. You know that we are in the midst of a dark and dense wilderness. Who is to be the Moses, whether from this side or the other of the Senate, (looking at the positions of the Senators from Virginia and Missouri,) that shall lead us to the promised land, is among those unknown things which the future alone can disclose.

And now I turn to the questions really before the Senate. I beg pardon for the digression into which I have been led in noticing the able and interesting speech of the Senator from Virginia, the gratification of hearing which I shared in common with the rest of the Senate. If, in noticing the few points with respect to which I differ from that honorable Senator, I

have departed from the rigid regularity of debate, I must plead his example as my apology. What are the questions which we have to consider? In 1816, the condition of the country in regard to the currency was this: Throughout all the country south of New England there was a general suspension of specie payments, and the bank notes in circulation were of different degrees of value, and nevertheless constituted the only medium in which the public dues were paid. The consequence was, that instead of taxes having the uniform character required by the Constitution, different parts of the country and different individuals paid the same tax in widely varying values. This was a condition which the country could not long bear, and the Government would have been wanting to every duty it owed to the community had it tolerated such a state of things. For every body must agree that there is in reality no difference between exacting different rates of duty in different parts of the country, and requiring that the same rates shall be paid in media very different in value. Such was the state in which Congress found the country at the memorable session of 1816. The question was, what should be done? That voluntary action of the banks, which is the sole reliance of the Senator from Virginia, had been fully tried and found wanting. There had been convention after convention of the banks, to try if they could not agree voluntarily to resume specie payments, but it was found impracticable to do so. Congress felt called upon to interpose, and two great and leading measures were devised as presenting the only prospect of remedy. One was proposed, or, to speak more correctly, was espoused by the Senator from South Carolina opposite, (Mr. CALHOUN,) (for it had originally been suggested by a late Secretary of the Treasury.) The other was brought forward by the Senator from Massachusetts, (Mr. WEBSTER.) One of these measures was the creation of a Bank of the United States. As there existed no paper medium of circulation on which the country could rely, the establishment of such a bank was supposed to be the only alternative left to the Government. It met with strong opposition, but was carried successfully through. It was apprehended, however, that this measure would be insufficient, unless it should be aided by another; and hence the resolution of the Senator from Massachusetts, which has repeatedly been alluded to in this debate, was introduced with a design of stimulating the restoration of specie payments, and remedying a state of things which was unjust and scandalous in the eyes of all commercial communities. That bank has been destroyed; and let me here say that I have not the least expectation of any effort being made by my friends to re-establish it. They have no such purpose. An experiment is now to be tried as to the power of local banks in meeting the wants of the community. Let those who are rashly trying the experiment be responsible for the issue. The resolution of my friend from Massachusetts was introduced simultaneously with the bill to incorporate the United States Bank. It was expected that the bank would go into operation early in the next year. The Secretary of the Treasury, by the resolution, was directed to take measures as soon as might be to ensure the payment of all Government dues in four specified media, but the discretion entrusted to him was only to continue until the 20th of February following. After that day no payment of public dues of any kind was to be permitted, save in one or other of the four media which had been specified.

Can any man look at that resolution at this day, and seriously entertain any doubt as to its true interpretation? The Secretary of the Treasury was immediately called upon to expound it; and an uninterrupted usage of twenty years, under succeeding Secretaries, has uniformly given to it the interpretation which it then received. It never was for a moment believed that it vested him with authority to require only specie, or to exclude entirely any of the four specified funds in payments to Government; that exposition was not interrupted for a moment by the act of 1820. I shall not repeat the argument in regard to it. It accomplished, and was designed to accomplish, but one purpose, which was the abolition of the credit system in the purchase of the public lands, and the substitution therefor of payment in hand. It did not interrupt for a moment the continuous interpretation of the resolution of 1816—an interpretation which extended into three successive administrations and through seven years of a fourth. Is it not too late, after this long adherence to one interpretation, to say that Congress has misunderstood it; that all the Secretaries have misunderstood it; and that your usage for such a course of years is at this late day to be surrendered as without a true foundation? It has been said that the resolution was restrictive. It was so in so far as it rejected the notes of non-specie-paying banks, but it was mandatory so far as it went to enumerate and specify the different media in which payment might be made. It was restrictive so far as bad notes were concerned, but it conferred a legal right on the payer to make, and a legal obligation on the receiver to accept, payment in one of the four several ways which the law provided. But if the Secretary of the Treasury had authority to select some and to reject others of these modes, then his rejection and selection must be applied universally. He has no right to discriminate between citizen and citizen. He has no right to say to the citizen of Boston, from you I will receive notes of the banks in Boston, but not of the Bank of the United States. Or to a citizen of New York, from you I will receive United States Bank bills, but not bills of the banks in Boston. No. If he had a right to say that either of the

four kinds should be received in preference to the rest, he is bound to make that rule and that preference to reach every where throughout the country. But what does he do? He not only discriminates between different branches of the revenue, making regulations to apply to one branch which do not apply to the others, but, in reference to that one branch, which is the subject of his order, he discriminates between different classes of individuals. I heard it contended by the Senator from North Carolina (Mr. STRANGE) that the exception in relation to actual settlers has now expired by its own limitation. True, sir, but if Congress rises and leaves this vast power in the hands of the Executive, how soon may the discrimination be revived? Unless this order shall be rescinded, will not the Executive draw his conclusions, from the silence of Congress, that it approves what he has done? And may he not suppose that he is authorized even to go farther, and carry down his principle of discrimination from classes to individuals?

I speak now of the question of power. Suppose the Secretary had reversed his rule—suppose he had said that the citizens of the States in which the land lays should have a right to purchase only with specie, while those who came from a distance might make their payment in notes. If he has absolute power over the subject, he might as well have made the one discrimination as the other. And he may not only discriminate between different classes of individuals, but between different places. I have been, indeed, informed that at one of the land offices specie under the order was not required. Where is this dispensing power? Where did the Secretary get it. Not from the words of the order, for that applies equally to all.

Sir, I have heard it contended for, again and again, and votes have been given recording such as the opinion of the majority of this Chamber, that payment for the public lands is a tax on the community. I do not myself think so. But I put the question to those gentlemen who do, and I ask them how this order can be justified if all taxes are required to be uniform? I come to the conclusion that its legality cannot be established, either under the joint resolution of 1816 or the law of 1820. It wants legal authority. It has on its very face all the air of Executive legislation. It has a preamble setting forth the reasons which have led to its enactment. The Secretary who put it forth seems strongly to have felt the necessity of sheltering himself under the invulnerable name of his chief. But were there even authority for the order in the letter of the law, I should still argue against its gross injustice in practice.

And this brings me now to inquire, what has been the effect of this order in its actual operation on the community? The order professes to proceed on the principle that the public lands are sold for a valuable consideration, if payment be made in bank notes, and that specie alone can constitute a just equivalent for their value. And I admit that if the Secretary had gone on to provide that the specie thus received should be the property of the Government, there would at least have been consistency in the course he adopted. But the moment the order appeared, there was an instant pressure for specie, especially in the West and Southwest. The banks were called upon, and specie in all quarters was put in requisition, for the purpose of paying for the public lands. The pressure upon the banks in Kentucky was great. Gentlemen talk to us about the inconsiderable amount that has been received, which is stated at \$1,800,000, exclusive of \$300,000 more, which was placed on deposit at Washington, and the certificates of which were received as cash; say, in round numbers, two millions of dollars. It is very true that this amount was not great, but the argument drawn from it is not a fair one. We must recollect that when the operation commenced no one knew what was to be its extent. No individual bank could possibly tell, and each was left in total uncertainty as to what would be required of them. The banks could not foresee that no more than two millions of dollars would be thus drawn from them. If they had known this beforehand, they might have made their arrangements to meet it. But on all the banks of the West and of the Southwest, daily demands were made for specie. There was, at once, not only a cessation of discounts, and the purchase of bills of exchange, but the banks made heavy calls upon their debtors. This state of things operated with peculiar severity on the West. It happened just about the time when our people begin to carry their live stock to market. The ordinary course of the trade is this: They draw bills upon themselves, or on their friends, at the markets to which they are destined, which are discounted by the bank; and with the proceeds of which they purchase their stock, and meet their engagements.—No business with us is more beneficial to all parties. The purchaser of stock diffuses money through the community, and on reaching the market he makes his sales, and is thus enabled to pay the bills which he had drawn. All this was immediately interrupted, in consequence of this Treasury order; for how could the banks venture to discount, with such an order hanging over their heads? If they purchased bills, the operation was equivalent to a disbursement of so much specie; for if they paid in these notes, they immediately returned upon them for specie. The Senator from Virginia has told us about the effect of the course pursued by certain collectors in Ireland in refusing to receive in payment the notes of Irish banks. What was that consequence? The stoppage of the Bank of Dublin, and its branches. Nor could that gentleman have pronounced a more severe condemnation of the order than

by the example which he quoted from the kingdom of Ireland. The banks, as I have said, were run upon. Individuals who possessed specie were unwilling to part from it, and reserved it for investment in the public lands. And there was a general accumulation, for the purpose of paying it into the land offices. Well, sir, it was carried to the land offices; and when it got there whose was it? What became of it? Was it the property of the Government? No, sir. Did you get it? No, sir. It was carried to the deposit banks, and there it was credited as so much money to the Government. The whole transaction, therefore, amounted to this: you forced all the purchasers of the public land to become collectors of specie for the deposit banks. The money was not collected for the Government. You cannot call for it. It is the property of those banks, to be used as they please. You have refused to credit banks for the notes they issued: you have occasioned all this vast inconvenience; and, finally, instead of getting the specie which you have been at so much trouble to collect, you get nothing but bank credits.

The money was transported from the seaboard, from the Western and Southwestern banks, from the theatres of business, where it might have been constantly and advantageously used, and taken into the interior to banks of very limited business. And even there they were afraid to use it, lest it might be suddenly called for. The difference of the two operations, before and after the order, is this: Before the order, purchasers of the public lands paid for them in bank notes, convertible into specie: after the order, they paid for them in specie, converted into bank credits. It was just reversing the order of things. You began with paper, and obtained specie if you wished it; but under the order, you began with specie and obtained only bank credits. The practical effect throughout all the Western and Southwestern States has been to make all the interests of society collectors of specie, for the benefit of the deposit banks, without the least benefit whatever to the Government; for these banks were not required to preserve the specific specie, and pay it over to the Government. Such was the demand for specie under this order, that I have heard of as much as 40 per cent. being given for gold to carry to the land office; and in some instances specie has been transported to the land offices, to be sold there as a marketable commodity. The order had a double effect. It withdraws specie both from circulation, and from the banks that could use it for the benefit of the community, that it may perform the unprofitable circuit of being taken to the land offices, and thence back to the banks, when it becomes their property.

Sir, what offence have the Western and Southwestern States committed, that they are to be subjected to an indignity which is not inflicted on the rest of the community? Why are we to pay our dues to the Government in specie, while the rest of our fellow-citizens are allowed to pay in bank notes? Even if there were authority for it in the law, the requisition would not be according to justice or equity. And all sentiments of fraternal regard, as well as all principles of equality, cry aloud against such revolting distinctions. Why are our banks and our people alone to be subjected to this rule? I protest, most solemnly, on behalf of my constituents, against so disgraceful an inequality; and I call upon the Government either to carry out their hard money system every where, at the custom-houses as well as at the land offices, or efface from its records a discrimination which cannot continue a day or an hour, without dishonor and degradation.

The honorable Senator from Virginia tells us that the measure is temporary. I wish he had made it out, or could do so now. How is it temporary? On its face? No, sir. It has just begun its wide-sweeping ruin. It began on the 15th August, and it tolerated for a time the exercise of some indulgence. Its full operation only commenced on the 15th of December, 1836, and there is nothing in its terms that looks like a temporary provision. There is nothing in the President's message, or in the report of the Secretary which announces to a suffering community that the heavy burden imposed upon them will not continue long. It may suit the purposes of the Senator from Virginia so to represent it. It may not be agreeable to him to be seen at open war with a measure of the Administration, but there is nothing in the terms of the order, and nothing in the policy on which it rests, which is temporary in its character. No, sir. Let Congress adjourn, and leave on the Western States this invidious, this unjust and degrading discrimination in the payment of common dues to a common Government, and, my word for it, this order will not only be continued, but it will be carried farther, and other discriminations will be made under your alleged sanction to suit the varying views of the Administration. Sir, give us equality. We are a common crew in the same noble, the same glorious ship of State. Is it not right that we should all be placed under the same common laws, and share alike the common justice of our country? I protest against the continuance for an hour of an iniquitous order, which subjects the Western and Southwestern portions of this Union to a rule so irreconcilable with any principles of justice or equity.

My friend from Ohio, who sits near me, (Mr. EWING,) has offered this resolution, which abolishes this odious distinction, and places all parts of the community, and every branch of the revenue, upon a footing of perfect equality.

But it is said WE ought not to do this; and if we do it, it will imply censure. And the

Senator from North Carolina, (Mr. STRANGE,) at a loss to make out a censorious charge from the words of the resolution itself, resorts to the language of a Senator to supply the deficiency. Sir, if we repeal the statute of a Legislature, does it imply censure on the Legislature? May we not repeal a statute of our own, and yet fix no stigma on our former deed? May we not then rescind an order or edict of Executive authority, without any such implication? Has it come to this, that a mere difference of opinion is censure? Are we to be afraid to express our sentiments of a public measure, lest, peradventure, we wound the feelings of the Chief Magistrate, or the Secretary of the Treasury? Sir, I have been struggling, associated with my friends, for a long time, against the complete ascendancy of Executive power; and we have sometimes been encouraged by a momentary hope of being able to arrest its lawless career. But, sir, its march has been steady, onward, and, I lament to say, triumphant. It is now practically the supreme power in the State. Every branch of the Government bends beneath its sway. The doctrine of unity in the executive administration, recently introduced; the obedience which, in pursuance of it, is exacted from all executive officers, from the highest to the lowest; the practice of proscription of all who do not conform to the prevailing creed, with the kindred usage of profuse official and other rewards to all who do, often without regard to character, integrity, or merit; and the exercise of boundless power over the public treasure, and by means of a concealed, mysterious, and irresponsible agency over the banks in which it is deposited, have stamped a totally new character upon the Government. It has become a vast organized machinery; controlled by the will of one man, and moved by a single hand. It is a monarchy in disguise, with fewer privileges practically enjoyed than are exercised in some monarchies. There, acts of the Crown may be exposed, censured, denounced, corrected, by the power of Parliament. But here we are not to complain of, or remonstrate against, executive acts. We must not presume to censure them. We must bear, in silent and dutiful submission, whatever ills the acts of the Executive may bring on the country. Or, if we attempt any corrective, we must graciously suppose that we are not going counter to the Executive will, and by a fiction convert a permanent measure into a temporary order!

When, Mr. President, shall we get back to the good old times, when a President of the United States never stepped out of his own sphere to assume powers not granted to him, or to control the discharge of duties specially assigned to subordinate officers? As to this Treasury order, I do not view it as an act of the Secretary. It has his hand but not his heart—not his mind. From the face of the order itself, I should draw the conclusion that he has been the unwilling executor of the bidding of another. Like its prototype employed for the removal of the deposits, it is an act of the Executive will, directly against the will of the officer particularly charged with a public duty. But, unlike that case, the Secretary clings closely to his office, and, rather than part with it, executes the arbitrary command of his master. He does not choose, with a manly independence, to sacrifice his place and preserve his character. And I understand that this order has been issued not only against the judgment and feelings of the Secretary, but of the whole Cabinet. I have heard so, and I believe it. There are those here who do know, and who, if I err, can contradict me. But I believe it. And now, when we undertake to examine the order, and confront it with the law, WE cannot touch it. WE may not repeal an Executive order, because, forsooth, to do so, casts a censure on the Executive. Why, sir, if the honorable Senator from Virginia is unwilling to throw censure on the Executive, he should have forbore the delivery of his able and eloquent speech. That whole speech, from beginning to end, was directed against that order, which he says we must not repeal, lest we censure the President. Why, sir, if that is his ground, he should have withheld his amendment; for what, after all, is the difference in effect between the resolution of the Senator from Ohio, and the amendment of the Senator from Virginia? The Treasury order is now in full operation. And what is the proposal of my friend from Ohio? To rescind it in terms. His language is open, direct, manly, but not offensive. But the Senator from Virginia cannot agree to the proposal. Well, sir, and what does he do in his amendment? He avoids, to be sure, the word “rescind,” but he rescinds the order just as effectually as the Senator from Ohio. I am quite sure that my friend from Ohio intended nothing offensive in the resolution offered by him. He thought that, without offence, the poor privilege might still be left to us of repealing our own acts, expressing our own opinions, and even of repealing Executive acts, when we deemed that the good of the country requires it. It appeared to him to be the most direct and manly course, if we meant to repeal the order, that we should say so. He added, it is true, another resolution; but I am willing, on behalf of my friend, that the first resolution should be abandoned altogether, and the last alone adopted. That will sufficiently accomplish our purpose, and accommodate the measure to the delicate and nervous sensibility of any friend of the Administration. That is all concerning which I feel any solicitude, and with this I will be content. All we seek is that an end shall be put to this invidious and disgraceful discrimination.

But it is said that there will be great difficulty in adopting this course; and the Senator from Virginia has accordingly guarded his amendment by the addition of a proviso, which

goes to make the amendment authorize the reception only of such notes as the deposit banks shall be willing, under the direction and supervision of the Secretary of the Treasury, to receive, and to credit to the United States as cash. Though I admit that the operation may be attended with great difficulty, yet I cannot think it insuperable. What was the ground on which the first Secretary of the Treasury received bank notes for the duties due to Government? The ground was this: that the bank notes of specie-paying banks are equivalent to specie, being in fact the representatives of specie. Bank notes of such banks are nothing more than so much told or counted specie; and they are so received. This was the principle on which Mr. Hamilton proceeded. It was a convenient arrangement, and is attended with no risk so long as the bills are convertible at pleasure into that which they represent. The Secretary could stop whenever he pleased. It saved much time; it was one of the greatest of time-saving machines. It was like paying a sum of money by the check of an individual upon his bank. That is not "paper money." Your creditor or the Government collector calls upon you with a demand, and you draw your check for the amount; when presented at bank it is instantly paid or passed to your credit. Such a check is equivalent to the specie it will command. Such representatives of specie ought to be received in payment of all Government dues; and there should be no discretionary power of refusing them, either by the collectors or the deposit banks. The result, then, to which I would come, is the adoption of this rule, viz. that when a bank note is presented to a collector in payment of a debt to the Government, if, at the place where such payment is made it is at par, that is, equal to so much specie, the collector shall be obliged to receive it; if it is not, then he shall be at liberty to reject it. If the note is not what it purports to be, the representative of specie to the amount on the face of it, then there ought to be no obligation to take it. The place of payment is what I would adopt as the test of all bank notes offered to us. If they are equal to specie *there*, they ought to be received. It may be said that the effect of such a rule will be to accumulate large sums of money at places where the Government does not need them; and thus subject it to the expense of transporting them to where they are required.—But to test this objection we have only to look back for a moment to the hard money system, and inquire, what would be the state of things if specie alone should be received? Would not that plan accumulate in the banks of the Western and Southwestern States vast amounts of gold and silver? And what is the Government to do with it? It is not needed there, and it would have to be transported at the expense of Government to where it is needed. So that my plan requires the transportation of a packet of bills, where that would require the transportation of a wagon load of specie. I think that the plan of making bank notes at par at the place of payment the test of the receivability of paper will save time, and have quite as good effect as the requisition of gold and silver.

I object to the amendment of the Senator from Virginia chiefly on account of its last clause. As to that part of it which requires the suppression of small notes, (though I believe that in practice, it will prove perfectly nugatory; that it will effect just nothing,) I am quite willing to indulge him with the experiment. Nothing, I am persuaded, will come out of it; but try it. But the last clause of his amendment says that no notes shall be received which the deposit banks are not willing to receive and credit to the United States. He adds, to be sure, that this shall be under the supervision and control of the Secretary of the Treasury. Such a provision leaves the whole country in total uncertainty. Nobody can know to-day what is to be the rule to-morrow. And as to the added clause, it will, in practice, make no difference; without it the whole matter would have depended on the mere pleasure of the deposit banks; and with it, should the Secretary occasionally revise the proceedings of those banks, he will still be governed by the wishes of the deposit banks. I object to the entrusting of such a power either with the Secretary or with the deposit banks. It places that which should be fixed and regulated by a known law, at the mere mercy and good pleasure of the banks or the Secretary. But if he will insert in his amendment a clause making the place of payment the test of the notes, we shall then have some rule which all can understand. All parties concerned will know whether the notes are at par at the place where payment is made. But, otherwise, no one can know but the Secretary, or the banks may put down to-morrow the notes which, under their auspices, he has received to day.

I fear, Mr. President, I have forfeited the good opinion I endeavored to conciliate when I began; but I have now done. All we desire is that something efficacious shall be done—that the session shall not be suffered to pass without the Treasury order being rescinded, either expressly or by implication; and I will now conclude by expressing my hope that, in every portion of the Senate, there will be found a disposition to extend equal and impartial justice to all parts of the country, without any degrading discriminations between one part and another, or one class of citizens and another.

Mr. RUGGLES rose only to correct an error into which the honorable Senator from Kentucky had fallen, no doubt inadvertently. He had mentioned the circumstance of Maine's having imposed restrictions upon the circulation of small notes, and remarked that, if he had not been misinformed, she immediately after sent to Massachusetts to obtain a supply of small

notes to put in circulation in room of those prohibited. He begged leave to assure the Senator that he had been greatly misinformed. He had been led into a great mistake in this matter. Maine had, it is true, passed a law prohibiting the circulation of small bills, but it is not true that she had sought a supply of them afterwards from Massachusetts or elsewhere. The political friends of the Senator from Kentucky in Maine very warmly opposed the measure in the Legislature, and it may be that they carried their opposition beyond the passage of the law, and sent to their friends in Massachusetts for a supply of those small bills to which they were so much attached. But he repeated that it was a mistake that such a course could be justly chargeable to the Government of the State.

Mr. CLAY explained. He did not mean to be understood as charging the Government of Maine, nor any political party there, with having sent out of the State for small notes. It might have been the act of individuals. He only mentioned the circumstance as showing that the law could not be executed, &c.

Mr. RUGGLES replied that he had no objection to make to the remark, if the Senator would confine it to his own political friends. But he did object to the imputation of such inconsistency upon the Government of the State, or upon the friends of the Administration, who participated in the action of the Government on that subject.

